

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:19-cv-60-FDW

|                              |   |              |
|------------------------------|---|--------------|
| WILLIAM KIMBLE, JR., et al., | ) |              |
|                              | ) |              |
| Plaintiffs,                  | ) |              |
|                              | ) |              |
| vs.                          | ) | <u>ORDER</u> |
|                              | ) |              |
| KENNETH LASSITER, et al.,    | ) |              |
|                              | ) |              |
| Defendants.                  | ) |              |
|                              | ) |              |

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**THIS MATTER** is before the Court *sua sponte* on review of the file.

On February 18, 2019, *pro se* incarcerated Plaintiff William Kimble, Jr., filed a Complaint pursuant to 42 U.S.C. § 1983 that he purports to bring on behalf of himself and seven other inmates: Jerey Rich, Kevin Guy, Shamar Royal, Mark Thomas, Kyle Bunch, Kyle Miller, and Lash Thomas. However, only Kimble has signed the Complaint. (Doc. No. 1).

An Amended Complaint filed on February 20, 2018 is again signed only by Kimble and includes the following additional inmates as Plaintiffs: Jerey Rich, Kevin Guy, Shamar Royal, Kyle Bunch, Kyle Miller, George A. Bigler, and Lash Thomas.

None of the Plaintiffs have paid the filing fee or filed an Application to Proceed in District Court Without Prepaying Fees or Costs. The Clerk of Court has sent out Notices of Deficiency with regards to the filing fee. See (Doc. Nos. 2-9, 11). Plaintiffs have been cautioned that failure to pay the filing fee or file applications to proceed *in forma pauperis* will lead to dismissal of this action without prejudice. (Id.).

Due to these serious deficiencies the Court is unable to screen the Amended Complaint at this time. Plaintiffs shall have **21 days** in which to file a Second Amended Complaint in which

they may attempt to cure these deficiencies. Plaintiffs are reminded that, despite their *pro se* status, they must comply with all applicable procedures and rules including the Federal Rules of Civil Procedure and the Court's Local Rules. Each of the Plaintiffs must sign the Second Amended Complaint. Rule 8(a)(2) of the Federal Rules of Civil Procedure requires a "short and plain" statement of the claim. The Second Amended Complaint will supersede the original and Amended Complaints and therefore any Defendants or claims not contained in the Second Amended Complaint will be waived. Plaintiffs must include the case number on the Second Amended Complaint so that it is docketed in the correct case. Plaintiffs' failure to timely file a single superseding Second Amended Complaint that complies with this Order will result in the Court proceeding on the Amended Complaint only with regards to William Kimble Jr. and the remaining Plaintiffs will be dismissed from this action. The filing of more than one Second Amended Complaint will probably result in the opening of separate § 1983 cases.

**IT IS, THEREFORE, ORDERED** that:

1. Plaintiffs shall have **21 days** in which to file a Second Amended Complaint in accordance with this Order and all applicable rules and procedures. If Plaintiffs fail to file a Second Amend Complaint in accordance with this Order, this action will proceed solely with regards to Plaintiff Kimble and will be dismissed and closed without prejudice and without further notice as to the remaining Plaintiffs.
2. The Clerk is directed to mail a copy of a new Section 1983 complaint form to Plaintiffs.

Signed: March 4, 2019



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Frank D. Whitney  
Chief United States District Judge

